

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.: 2007-1803-PWS-E TCEQ ID: RN102679461 CASE NO.: 34916**  
**RESPONDENT NAME: MARIA A. BELTRAN DBA 1017 CAFE**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1.1 miles west of Farm-to-Market Road 1017, Starr County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired March 9, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="margin-left: 20px;"><b>TCEQ Attorney:</b> Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Mr. Stephen Thompson, Water Enforcement Division, MC 169, (512) 239-2558</p> <p style="margin-left: 20px;"><b>TCEQ Regional Contact:</b> Mr. David Ramirez, Harlingen Regional Office, MC R-15, (956) 430-6048</p> <p style="margin-left: 20px;"><b>Respondent:</b> Maria L. Beltran, P.O. Box 126, San Isidro, Texas 78588</p> <p style="margin-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p> <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review         </p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 1, 2007</p> <p><b>Date of NOE Relating to this Case:</b> June 20, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed December 2, 2008. Settlement was achieved January 6, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent had no violations in 2008 and is currently in compliance.</p> <p><b>MSW:</b></p> <ol style="list-style-type: none"> <li>Exceeded the maximum contaminant level ("MCL") for total coliform in May and December 2006, and failed to post public notice of the MCL violations [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.031(a)].</li> <li>Failed to collect and submit at least five routine water samples during the months following a total-colliform positive sample result in June and September 2006, and failed to provide public notification of the failure to collect water samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)].</li> <li>Failed to collect and submit monthly water samples for bacteriological analysis in February and May 2007, and failed to provide public notification of the failure to collect water samples in February 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</li> </ol>	<p><b>Total Assessed:</b> \$2,500</p> <p><b>Total Deferred:</b> \$0</p> <p> <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset         </p> <p><b>Total Paid/Due to General Revenue:</b> \$1,000/\$1,500</p> <p>The Respondent paid \$1,000 of the administrative penalty. The remaining amount of \$1,500 shall be payable in 15 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification:</b> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Respondent received six NOV's for the same violations in the past five years.</p>	<p><b>Ordering Provisions:</b></p> <p>The Executive Director recognizes that the Respondent is currently in compliance.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

<b>DATES</b>	Assigned	24-Sep-2007	Screening	5-Nov-2007	EPA Due	26-Feb-2008
	PCW	12-Mar-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Maria A. Beltran dba 1017 Cafe
Reg. Ent. Ref. No.	RN102679461
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	34916	No. of Violations	3
Docket No.	2007-1803-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Stephen Thompson
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,500</b>
---	-------------------	----------------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>30% Enhancement</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$450</b>
---------------------------	------------------------	--------------------------------	--------------

Notes	Enhancement recommended due to six previous NOV's for same or similar violations, in the past five years.
-------	---

<b>Culpability</b>	<b>No</b>	<b>0% Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	-----------	-----------------------	-------------------	------------

Notes	The Respondent does not meet the culpability criteria.
-------	--

<b>Good Faith Effort to Comply</b>	<b>0% Reduction</b>	<b>Subtotal 5</b>	<b>\$0</b>
------------------------------------	---------------------	-------------------	------------

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes	The Respondent does not meet the good faith criteria.
-------	---

	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$330	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$550		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,950</b>
-----------------------------	-----------------------	----------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>28%</b>	<b>Adjustment</b>	<b>\$550</b>
---	------------	-------------------	--------------

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	Enhancement recommended for recovery of avoided costs of compliance.
-------	--

<b>Final Penalty Amount</b>	<b>\$2,500</b>
-----------------------------	----------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$2,500</b>
-----------------------------------	-------------------------------	----------------

<b>DEFERRAL</b>	<b>0% Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
-----------------	---------------------	-------------------	------------

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
-------	---

<b>PAYABLE PENALTY</b>	<b>\$2,500</b>
------------------------	----------------

Screening Date 5-Nov-2007

Docket No. 2007-1803-PWS-E

PCW

Respondent Maria A. Beltran dba 1017 Cafe

Policy Revision 2 (September 2002)

Case ID No. 34916

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102679461

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement recommended due to six previous NOVs for same or similar violations, in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 30%

<b>Screening Date</b> 5-Nov-2007 <b>Respondent</b> Maria A. Beltran dba 1017 Cafe <b>Case ID No.</b> 34916 <b>Reg. Ent. Reference No.</b> RN102679461 <b>Media [Statute]</b> Public Water Supply <b>Enf. Coordinator</b> Stephen Thompson <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2007-1803-PWS-E <div style="text-align: right;"><b>PCW</b></div> <div style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision June 26, 2007</div>																														
<b>Rule Cite(s)</b> 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(B) and Tex. Health and Safety Code § 341.031(a)																															
<b>Violation Description</b> Exceeded the maximum contaminant level ("MCL") for total coliform in May and December 2006 and failed to post a public notice ("PN") for exceeding the MCL for total coliform, as documented by a record review conducted on June 1, 2007.																															
<b>Base Penalty</b> <input style="width: 100px;" type="text" value="\$1,000"/>																															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																															
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td><b>Release</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><b>Actual</b></td> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> <tr> <td><b>Potential</b></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <div style="text-align: right; margin-top: 5px;"> <b>Percent</b> <input style="width: 50px;" type="text" value="25%"/> </div>		Major	Moderate	Minor		<b>Release</b>					<b>Actual</b>		x			<b>Potential</b>														
	Major	Moderate	Minor																												
<b>Release</b>																															
<b>Actual</b>		x																													
<b>Potential</b>																															
<b>&gt;&gt; Programmatic Matrix</b>																															
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Falsification</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <div style="text-align: right; margin-top: 5px;"> <b>Percent</b> <input style="width: 50px;" type="text" value="0%"/> </div>	Falsification	Major	Moderate	Minor																										
Falsification	Major	Moderate	Minor																												
Matrix Notes	The presence of coliform bacteria is an indication that the water is contaminated with significant amounts of contaminants that do not exceed levels that are protective of human health.																														
<b>Adjustment</b> <input style="width: 100px;" type="text" value="\$750"/>																															
<input style="width: 100px;" type="text" value="\$250"/>																															
<b>Violation Events</b>																															
<div style="display: flex; justify-content: space-between;"> <div> <b>Number of Violation Events</b> <input style="width: 50px;" type="text" value="2"/> </div> <div> <input style="width: 50px;" type="text" value="62"/> <b>Number of violation days</b> </div> </div> <div style="margin-top: 10px;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 20%;">daily</td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 30%;"></td> </tr> <tr> <td></td> <td>monthly</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> <tr> <td></td> <td>quarterly</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>semiannual</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>annual</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>single event</td> <td></td> <td></td> <td></td> </tr> </table> <div style="text-align: right; margin-top: 10px;"> <b>Violation Base Penalty</b> <input style="width: 100px;" type="text" value="\$500"/> </div> </div> <div style="border: 1px solid black; padding: 10px; margin-top: 10px; text-align: center;">         Two monthly events are recommended.       </div>			daily					monthly	x				quarterly					semiannual					annual					single event			
	daily																														
	monthly	x																													
	quarterly																														
	semiannual																														
	annual																														
	single event																														
<b>Economic Benefit (EB) for this violation</b>																															
<div style="display: flex; justify-content: space-between;"> <div> <b>Estimated EB Amount</b> <input style="width: 100px;" type="text" value="\$216"/> </div> <div> <b>Violation Final Penalty Total</b> <input style="width: 100px;" type="text" value="\$833"/> </div> </div> <div style="text-align: right; margin-top: 10px;"> <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width: 100px;" type="text" value="\$833"/> </div>																															

## Economic Benefit Worksheet

**Respondent** Maria A. Beltran dba 1017 Cafe  
**Case ID No.** 34916  
**Reg. Ent. Reference No.** RN102679461  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$200	1-May-2006	31-Dec-2006	1.6	\$16	\$200	\$216

Notes for AVOIDED costs

Avoided costs include additional oversight to properly treat the water to prevent the presence of coliform and to provide public notice, calculated for the months in which the exceedences occurred.

Approx. Cost of Compliance

\$200

TOTAL

\$216

<b>Screening Date</b> 5-Nov-2007		<b>Docket No.</b> 2007-1803-PWS-E		<b>PCW</b>
<b>Respondent</b> Maria A. Beltran dba 1017 Cafe		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 34916		<small>PCW Revision June 26, 2007</small>		
<b>Reg. Ent. Reference No.</b> RN102679461				
<b>Media [Statute]</b> Public Water Supply				
<b>Enf. Coordinator</b> Stephen Thompson				
<b>Violation Number</b>	<input type="text" value="2"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)			
<b>Violation Description</b>	Failed to collect and submit at least five routine water samples during the months (June and September 2006) following a total coliform positive sample result and failed to provide public notification of the failure to collect water samples.			
<b>Base Penalty</b>				<input type="text" value="\$1,000"/>

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>			
	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Failure to sample may allow undetected contaminants that exceed levels protective of human health to be distributed to the public resulting in illness.			
<b>Adjustment</b>				<input type="text" value="\$750"/>
				<input type="text" value="\$250"/>

<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="2"/>	<b>Number of violation days</b>	
		<input type="text" value="61"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>	
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Two monthly events are recommended.				

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$87"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$833"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$833"/>	

**Economic Benefit Worksheet**

Respondent: Maria A. Beltran dba 1017 Cafe  
 Case ID No.: 34916  
 Reg. Ent. Reference No.: RN102679461  
 Media: Public Water Supply  
 Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$250	1-Jun-2006	30-Sep-2006	0.3	\$4	\$83	\$87
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to collect at least five water samples the month following a total-coliform positive sample result and provide public notification. Date required is the first month at least five samples needed to be collected and the final date is the last month where at least five samples needed to be collected.

Approx. Cost of Compliance \$250

TOTAL \$87



<b>Screening Date</b> 5-Nov-2007		<b>Docket No.</b> 2007-1803-PWS-E		<b>PCW</b>																	
<b>Respondent</b> Maria A. Beltran dba 1017 Cafe		<i>Policy Revision 2 (September 2002)</i>																			
<b>Case ID No.</b> 34916		<i>PCW Revision June 26, 2007</i>																			
<b>Reg. Ent. Reference No.</b> RN102679461																					
<b>Media [Statute]</b> Public Water Supply																					
<b>Enf. Coordinator</b> Stephen Thompson																					
<b>Violation Number</b>	<input type="text" value="3"/>																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and Tex. Health & Safety Code § 341.033(d)																				
<b>Violation Description</b>	Failed to collect and submit monthly water samples for bacteriological analysis for the months of February and May 2007 and failed to provide public notification of the failure to collect water samples in February 2007.																				
<b>Base Penalty</b>				<input type="text" value="\$1,000"/>																	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text" value="x"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>					<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
		<b>Harm</b>																			
	<b>Release</b>	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>																		
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>																		
<b>&gt;&gt; Programmatic Matrix</b>																					
<b>Matrix Notes</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>					Major	Moderate	Minor	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>								
		Major	Moderate	Minor																	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
<div style="border: 1px solid black; padding: 5px;">           Failure to perform routine bacteriological sampling of the public water supply may allow undetected contaminants that exceed levels protective of human health to be distributed to the public resulting in illness.         </div>																					
<b>Adjustment</b>				<input type="text" value="\$750"/>																	
				<input type="text" value="\$250"/>																	
<b>Violation Events</b>																					
<b>Number of Violation Events</b>		<input type="text" value="2"/>	<input type="text" value="59"/>	<b>Number of violation days</b>																	
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>																		
	monthly	<input type="text" value="x"/>																			
	quarterly	<input type="text"/>																			
	semiannual	<input type="text"/>																			
	annual	<input type="text"/>																			
	single event	<input type="text"/>																			
Two monthly events are recommended.																					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>																		
<b>Estimated EB Amount</b>		<input type="text" value="\$27"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$833"/>																		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$833"/>																	

## Economic Benefit Worksheet

Respondent: Maria A. Beltran dba 1017 Cafe

Case ID No. 34916

Reg. Ent. Reference No. RN102679461

Media: Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	28-Feb-2007	1-Jun-2007	0.3	\$1	\$25	\$27
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs to collect and submit monthly water samples for bacteriological analysis and provide public notification. The date required is the first month the Respondent failed to sample. The final date is the month the Respondent began sampling.

Approx. Cost of Compliance

\$100

TOTAL

\$27

## Compliance History

Customer/Respondent/Owner-Operator:	CN602292690	BELTRAN, MARIA A	Classification: n/a	Rating: 0.00
Regulated Entity:	RN102679461	1017 CAFE	Classification: n/a	Site Rating: 0.00
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	2140030
Location:	1.1 Mile West of Farm-to-Market 1017, Starr County			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	November 05, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 05, 2002 to November 05, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Barnett		Phone:	713-767-3680

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |    |            |          |
|----|------------|----------|
| 1  | 07/27/2003 | (146012) |
| 2  | 10/21/2003 | (249034) |
| 3  | 06/02/2006 | (567980) |
| 4  | 07/31/2006 | (570149) |
| 5  | 10/25/2006 | (570189) |
| 6  | 01/03/2007 | (570234) |
| 7  | 03/29/2007 | (570239) |
| 8  | 04/27/2007 | (554009) |
| 9  | 06/25/2007 | (570241) |
| 10 | 09/21/2007 | (571231) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**Date: 06/02/2006** (567980)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: 05/2006- Exceeded a maximum contaminant level (MCL) violation in 05/2006.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)

Description: 05/2006- Failure to post a PN for exceeding a maximum contaminant level (MCL) violation in 05/2006.

**Date: 07/31/2006** (570149)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: 06/2006 - Failure to collect all of the 5 distribution sample(s) in 06/2006 following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: 06/2006 - Failure to post PN for not collecting all of the 5 distribution sample(s) in 06/2006 following a coliform found month.

Date: 10/25/2006 (570189)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: 09/2006 - Failure to collect any of the 5 distribution samples in 09/2006 following a coliform found month.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: 09/2006 - Failure to post PN for not collecting any of the 5 distribution samples in 09/2006 following a coliform found month.

Date: 01/03/2007 (570234)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: 12/2006 - Exceeded a maximum contaminant level (MCL) violation in 12/2006.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)

Description: 12/2006 - Failure to post PN for exceeding a maximum contaminant level (MCL) violation in 12/2006.

Date: 03/29/2007 (570239)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: 02/2007 - Failure to collect any routine monitoring sample(s) for 02/2007.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: 02/2007 - Failure to post PN for not collecting any routine monitoring sample(s) in 02/2007.

Date: 06/25/2007 (570241)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: 05/2007 - Failure to collect any routine monitoring sample(s) for 05/2007.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARIA A. BELTRAN DBA 1017  
CAFE, RN102679461**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1803-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Maria A. Beltran dba 1017 Café ("Ms. Beltran") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Beltran, presented this agreement to the Commission.

Ms. Beltran understands that she has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Ms. Beltran agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Ms. Beltran.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Ms. Beltran owns and operates a public water system located in San Isidro, Starr County, Texas (the "Facility") that has two service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review on June 1, 2007, a TCEQ Central Office investigator documented that Ms. Beltran:

- a. exceeded the maximum contaminant level ("MCL") for total coliform in May 2006 and December 2006, and failed to post public notice of exceeding the total coliform MCL.
  - b. failed to collect and submit at least five routine water samples during the months following a total coliform positive sample result and failed to provide public notification of the failure to collect water samples.
  - c. failed to collect and submit monthly water samples for bacteriological analysis for the months of February 2007 and May 2007 and failed to provide public notification of the failure to collect water samples in February 2007.
3. Ms. Beltran received notice of the violations on or about June 25, 2007.
  4. The Executive Director recognizes that Ms. Beltran brought her system into compliance in June 2007.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Beltran is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Ms. Beltran has exceeded the MCL for total coliform in May 2006 and December 2006, and failed to post public notice of exceeding the total coliform MCL, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Finding of Fact No. 2.b., Ms. Beltran failed to collect and submit at least five routine water samples during the months following a total coliform positive sample result and failed to provide public notification of the failure to collect water samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B).
4. As evidenced by Finding of Fact No. 2.c., Ms. Beltran failed to collect and submit monthly water samples for bacteriological analysis for the months of February 2007 and May 2007 and failed to provide public notification of the failure to collect water samples in February 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Ms. Beltran for violations of TEX. HEALTH & SAFETY CODE, TCEQ rules, and orders adopted under the Code.
6. An administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Ms. Beltran has paid one thousand dollars (\$1,000.00) of the administrative penalty. The remaining amount of one thousand five hundred dollars (\$1,500.00) shall be payable in 15 monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Ms. Beltran fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Ms. Beltran to timely and satisfactorily comply with all the terms of this Agreed Order.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Ms. Beltran is assessed an administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) as set forth in Conclusion of Law No. 6 for violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ. The payment of this administrative penalty and Ms. Beltran's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be sent with the notation "Re: Maria A. Beltran dba 1017 Cafe; Docket No. 2007-1803-PWS-E" to:

Financial Administration Division, Revenues  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

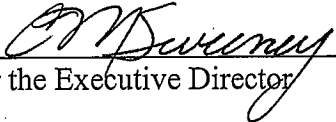
2. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Ms. Beltran if the Executive Director determines that Ms. Beltran has not complied with one or more of the terms or conditions in this Agreed Order.
3. This Agreed Order shall terminate five years from its effective date or upon compliance with all terms and conditions set forth in this Agreed Order, whichever is later.
4. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Beltran in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of the TEX. WATER CODE or the TEX. HEALTH & SAFETY CODE.
5. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
6. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Ms. Beltran, or three days after the date on which the Commission mails notice of the Order to Ms. Beltran, whichever is earlier.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

2/19/09  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Maria A. Beltran dba 1017 Cafe. I represent that I am authorized to agree to the attached Agreed Order on behalf of Maria A. Beltran dba 1017 Cafe, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

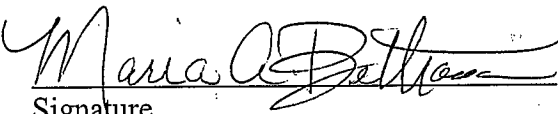
I understand that by entering into this Agreed Order, Maria A. Beltran dba 1017 Cafe waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature  
Maria A. Beltran dba 1017 Café, Owner

1/16/09  
Date